United States District Court

WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

THOMAS POWERS

(Name and Address of Defendant)

FILED
U.S. DISTRICT COURT
W.D. of N.Y.
9/25/06
AT ____ O'C ____ M.
BY ____
TITLE ____

CRIMINAL COMPLAINT

CASE NUMBER: 06-M-1114

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about December 27, 2004 in Niagara County, in the Western District of New York defendant did, (Track Statutory Language of Offense)

knowingly possess a thirteen disks containing images of child pornography, which had been mailed, shipped and transported in interstate and foreign commerce

in violation of Title 18 United States Code, Section 2252A(a)(5)(B) (13 counts).

I further state that I am a Special Agent with the Federal Bureau of Investigation (FBI) and that this complaint is based on the following facts:

See attached affidavit.

Continued on the attached sheet and made a part hereof: (**X**) Yes ( ) No

X [signature]
STEVEN FORREST, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

September 25th, 2006 at Buffalo, New York
Date City and State

HONORABLE LESLIE G. FOSCHIO
United States Magistrate Judge
Name & Title of Judicial Officer

[signature]
Signature of Judicial Officer

AFFIDAVIT OF STEVEN FORREST

I, Steven Forrest, having been first duly sworn, do hereby depose and state as follows:

1. I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and have been so employed for approximately eight and one half (8 ½) years. I am currently assigned to the FBI's Innocent Images National Initiative which targets individuals involved in the online sexual exploitation of children and have been involved in such investigations since June of 2000.

2. I make this affidavit in support of a Complaint against **THOMAS POWERS**, DOB 7/11/1959, of Lockport, New York.

3. The statements contained in this affidavit are based on my experience and background as a Special Agent of the FBI, as well as information provided to the FBI by the Lockport New York Police Department. Since this affidavit is being submitted for the limited purpose of seeking a Complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that there has been violations of Title 18, United States Code, Section 2252A(a)(5)(B) which prohibits the knowing possession of any material that contains an image of child pornography that has traveled in interstate commerce.

DETAILS OF INVESTIGATION

4. On December 27, 2004, Donna Powers contacted the LPD to report the possible possession of child pornography by her husband THOMAS POWERS.

5. Donna Powers advised the LPD that on December 23, 2004, she was using a computer located at 348 High Street, Lockport, New York, the home she shared with THOMAS POWERS and their six year old daughter, when she discovered images of children engaged in sexual activity. Specifically, Mrs. Powers advised the LPD that she saw pictures of naked girls between five and eight years of age performing oral sex on adult men and a picture of a female child performing oral sex on a male child on the computer. Mrs. Powers stated that she and her husband were the only individuals that had access to the computer in their home.

6. On December 27, 2004, LPD officers went to 348 High Street, Lockport, New York to secure the computer which may contain child pornography. Upon arrival at the residence, Mrs. Powers asked the LPD officers to wait outside while she spoke with her husband THOMAS POWERS.

7. A few minutes later, Mrs. Powers invited the LPD officers into the residence. After entering the house, one of the officers

asked THOMAS POWERS if he knew why they were there and THOMAS POWERS stated "yes its about the computer and the inappropriate pictures I have on them." THOMAS POWERS was asked where the computers were and subsequently led the officers to a back room that THOMAS POWERS referred to as the "office."

8. The LPD officers advised THOMAS POWERS that they were investigating allegations of child pornography and also advised THOMAS POWERS of his Miranda Warnings. THOMAS POWERS stated that he heard and understood the Miranda Warnings given to him, and agreed to speak to the officers. LPD asked THOMAS POWERS if he had child pornography on his computer, and THOMAS POWERS responded "yes," but said that he was attempting to discard all of it.

9. THOMAS POWERS stated that in addition to the computers, he had a box of CDs that he was intending on throwing out. THOMAS POWERS was asked for the box of CDs, and THOMAS POWERS voluntarily provided the box of CDs to LPD. When asked if child pornography would be found on the CDs, THOMAS POWERS stated "probably." THOMAS POWERS was asked to place one of the CDs into his computer and bring the files up on the computer. After doing so, the LPD officers observed some photographs of nude children.

10. The interviewing officers observed that there were numerous other computers in the "office" and CDs all over the room. THOMAS POWERS released all of the computer towers in the "office" to the interviewing officers and advised the officers that he had more computers in the front room. THOMAS POWERS subsequently provided the interviewing Officers with two more computer towers.

11. THOMAS POWERS gave the officers six computer towers, one computer monitor, and one box of computer disks which were removed from the residence at that time.

12. The computers and computer media turned over by THOMAS POWERS were subsequently submitted for examination by the LPD.

13. Your affiant has reviewed the compact discs and found that at least thirteen of these compact discs contained images of what appear to be children engaging in sexually explicit conduct, as that term is defined in Title 18, U.S.C., Section 2256. Your affiant observed in excess of 1,000 images which appear to depict children engaging in sexually explicit conduct.

14. Some of the children on ten of the discs are known victims to law enforcement. Based upon prior law enforcement investigations, it is known that the molestations depicted in some

of these files occurred in other states and countries including Pennsylvania, Texas, Germany, France, the United Kingdom, and Paraguay. Therefore, the images of the known victims traveled through interstate and/or foreign commerce before being found on the disks belonging to Thomas Powers.

15. For example, your affiant observed thirty (30) images of a prepubescent female engaging in sexually explicit conduct compact disc #9. The sexually explicit conduct includes an adult male engaging in vaginal intercourse with the prepubescent female, an adult male performing oral sex on the prepubescent female, the prepubescent female performing oral sex on the adult male, and the prepubescent female with her genitalia exposed in a lascivious manner. This prepubescent female is known to law enforcement as the result of previous investigation which determined that these images were taken in Pennsylvania.

16. Three Memorex compact disks also contained images of child pornography. Memorex compact disks are not manufactured in New York State and therefore, these disks traveled across state lines before THOMAS POWERS possessed them.

CONCLUSION

17. Based upon the above information, I believe probable

cause exists to believe that THOMAS POWERS has violated Title 18, United States Code, Section 2252A (a)(5)(B) which prohibits the knowing possession of any material that contains an image of child pornography that has traveled in interstate commerce.

X [signature]
Steven Forrest

Sworn to before me this
25th day of September, 2006

[signature]
LESLIE G. FOSCHIO
UNITED STATES MAGISTRATE JUDGE